ARKANSAS COURT OF APPEALS
NOT DESIGNATED FOR PUBLICATION
SAM BIRD, JUDGE

DIVISION I

CACR06-810

MARCH 21, 2007

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| TERRY BERNARD POTTS<br>APPELLANT | APPEAL FROM THE PULASKI COUNTY CIRCUIT COURT, FOURTH DIVISION<br>[NO. CR05-2183] |
| V. | HON. JOHN LANGSTON, JUDGE |
| STATE OF ARKANSAS<br>APPELLEE | AFFIRMED |

Terry Potts was tried by a jury and was convicted of theft by receiving, three counts of aggravated robbery, felony theft of property, and misdemeanor theft of property. He was sentenced as a violent and habitual offender to a total of 260 years' imprisonment for the five felonies, and he received a concurrent one-year sentence for the misdemeanor. On appeal he challenges the sufficiency of the evidence to support his convictions, arguing that the victims' identification of him was not credible. We agree with the State that this argument cannot be addressed on appeal; therefore, the convictions are affirmed.

The events that resulted in these convictions occurred in Little Rock's Rivermarket District around 11:30 p.m. on April 29, 2005. Jennifer Flowers, Jaci Newman, and Holly Dennison testified that they were robbed at gunpoint when they got into their parked car and

that, about a day after the robbery, each woman gave a statement to the police. Flowers, who was in the driver's seat, and Newman, the front-seat passenger, described the assailant in their statements and picked Potts's picture from a photo lineup. Dennison, who was sitting in the back seat, was unable to describe the robber. She told police that she could not identify her attacker but, after being asked to make her best choice, picked two possibilities from the photo lineup. Neither time did she choose Potts's photograph. Flowers and Newman, in addition to picking Potts in the photo lineup, identified him in the courtroom as the man who committed the crimes against them.

Potts moved for a directed verdict at the conclusion of the State's case, arguing generally that the State had not met its burden of proof as to each count against him. He also argued that the State had failed to meet its burden regarding the value of the stolen property and had failed to prove that Potts had knowledge that Flowers' credit card, which was found in his possession, was stolen. The trial court, finding that the value of the items stolen from one of the victims did not meet the amount required for felony theft, reduced one felony count to a misdemeanor. The motions for directed verdict were otherwise denied.

Potts then put on a case for the defense. He testified in his own behalf and displayed himself to the jury in an attempt to show that his appearance did not match the victims' early descriptions of wrinkled skin, gold teeth, and hairy hands. At the completion of his case he renewed his directed-verdict motions, which were again denied by the trial court.

Potts argues on appeal that the victims' identification of him as the perpetrator was not credible and that their testimony identifying him was inherently improbable. He asserts that there was a wide discrepancy between his actual appearance at trial and his appearance as described by the victims in their previous statements to police, attributing to him such characteristics as wrinkly skin, gold or shiny teeth, and hairy hands.

While Potts did make timely motions for a directed verdict, they were made on grounds that are inadequate to preserve for our review the specific argument he now raises. *E.g.*, *Stewart v. State*, 320 Ark. 75, 894 S.W.2d 930 (1995). A party cannot change the grounds for an objection on appeal, but is bound by the scope and nature of objections and arguments presented at trial. *Id.* Moreover, the credibility of witnesses is an issue for the jury and not for the appellate court. *Meadows v. State*, 360 Ark. 5, 199 S.W.3d 634 (2004). The jury, resolving questions of conflicting testimony and inconsistent evidence, may choose to believe the State's account of the facts rather than the defendant's. *Id.* Thus, Potts's argument regarding the witnesses' identification of him is not properly before us.

Affirmed.

PITTMAN, C.J., and HART, J., agree.